

February 4, 2020

VIA ECF

The Honorable Jesse Furman
United States District Judge
United States Courthouse
40 Foley Square
New York, NY 10007

Re: *Jason Boyce v. Bruce Weber, et ano.* / 1:19-cv-3825

Dear Judge Furman:

We are counsel to defendants Bruce Weber and Little Bear, Inc. ("Defendant's") in the above-entitled action, and respectfully submit this letter regarding the Daubert deadline

On January 28, 2020, the Court extended both the summary judgment and Daubert deadlines to February 12, in response to Defendant's letter-motion. [Dkt. # 62, 63].

Defendants are grateful for the Court's order respecting the summary judgment deadline. However, Defendants had not sought a specific deadline for the filing of a Daubert motion because, at the time, Defendants were unsure when Plaintiff's expert, Dr. Judy Ho, would be available for her continued deposition.

Previously, Defendants had over two weeks between the scheduled deposition of Dr. Ho (January 13) and the previous Daubert deadline (January 30). However, as explained in our prior letter, as a result of issues that arose when Defendants attempted to depose Plaintiff's expert witness in Los Angeles on January 13, 2020 that deposition was not completed, which resulted in letter motion practice and a hearing before Judge Netburn, at which she ordered that if Plaintiff still wants to use Dr. Ho, they have to make her available for a full seven (7) hours of deposition and pay Defense costs for this.

The deposition of Plaintiff's expert, Dr. Ho, is now scheduled for February 6 in Los Angeles. Therefore, the February 12 Daubert deadline would not afford us sufficient time to review the transcript, consider, prepare and file a Daubert motion, if such a motion is appropriate (especially considering Defendants are deposing another witness in LA on February 7, working on the summary judgment motion due on February 12 in this case, and are arguing a summary judgment motion in front of Judge Daniels on February 11). Defendants respectfully submit they should not be given only three weekdays to work on and finalize a Daubert motion, when they

would have had a full two weeks but for Plaintiff's improper termination of Dr. Ho's deposition. By contrast, Plaintiff deposed Defendants' expert, Dr. Mark Mills, on January 17 without incident, and he has almost a month to file his Daubert motion.

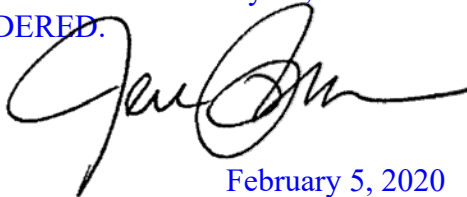
Defendants therefore respectfully request that the Daubert deadline for both parties be extended to February 20 – which is 14 days after the anticipated date of the deposition of Plaintiff's expert.

We have conferred with Plaintiff who advised that they do not object to the extension of the Daubert deadline for both parties to February 20.

s/Daniel L. Brown
Daniel L. Brown

for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

The deadlines for both parties to file both summary judgment motions and Daubert motions is hereby EXTENDED to February 12, 2020. The Clerk of Court is directed to terminate ECF No. 66. SO ORDERED.

A handwritten signature in black ink, appearing to read "Jesse Furman", is written over the typed name and date.

February 5, 2020